

HOUSE BILL 2088

By Maddox

AN ACT to amend Tennessee Code Annotated, Title 33,  
relative to providers of personal support services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 2, Part 4, is amended by  
adding the following language as a new section:

§ 33-2-421.

(a) As used in this section:

(1) "Personal support services agency" means a self-employed individual,  
sole proprietorship, partnership, corporation, limited liability company, or a limited  
partnership providing personal support services as defined in this part; and

(2) "Personal support services worker" means an individual who is  
providing personal support services pursuant to an arrangement between the  
service recipient and a personal support services agency.

(b) In addition to the standards and requirements for personal support services  
as established by rules adopted by the department, personal support services agencies  
shall comply with the requirements in this section.

(c) Personal support service agencies shall provide to each service recipient a  
consumer notice which shall include, at a minimum, the following:

(1) The duties, responsibilities, obligations and legal liabilities of the  
personal support services agency to the personal support services workers and  
to the consumer. Such description shall clearly set forth the consumer's  
responsibility, if any, for:

(A) Day-to-day supervision of the personal support services  
workers;

- (B) Assigning duties to the personal support services worker;
- (C) Hiring, firing and discipline of the personal support services worker;
- (D) Provision of equipment or materials for use by the personal support services worker;
- (E) Performing a criminal background check on the personal support services worker;
- (F) Checking the personal support services worker's references;
- and
- (G) Ensuring credentials and appropriate licensure/certification of a personal support services worker;

(2) A statement identifying the personal support services agency as an employer, joint employer, leasing employer, or non-employer, as applicable, of the personal support services worker along with the responsibility the personal support services agency will assume, if any, for the payment of the personal support services worker's wages, including overtime pay for hours worked in excess of forty (40) hours in a workweek, taxes, social security, Medicare, workers compensation and unemployment compensation payments;

(3) A statement that, regardless of the personal support services agency's status, the consumer may be considered an employer under various state and federal employment laws, and that, if this is the case, he or she may be held responsible for the payment of the personal support services worker's federal, state and local taxes, social security, Medicare, overtime and minimum wages, unemployment and workers compensation insurance payments;

(4) A list of the forms that the consumer may be required by law to complete and submit as an employer; and

(5) The penalties that may be assessed against the consumer in the event that the consumer is determined to be an employer but has not fulfilled the consumer's obligations as an employer.

(d) A personal support services agency shall provide a worker notice to each personal support services worker who is placed with a service recipient. Such notice shall be provided to the personal support services worker before the worker provides any service to the service recipient. The worker notice shall contain the following information:

(1) The relationship between the personal support service agency and the personal support services workers; and

(2) A description of the duties, responsibilities, obligations and legal liabilities of the personal support services agency, the consumer, and the personal support services worker. Such description shall include the following information:

(A) A statement as to the party responsible for the payment of the personal support services worker's wages, including overtime pay for hours worked in excess of forty (40) hours in a workweek, taxes, social security, Medicare, unemployment and workers compensation insurance; and

(B) A statement identifying which party will be responsible for the personal support services worker's hiring, firing, discipline, day-to-day supervision, assignment of duties and provision of equipment or materials for use by the personal support services worker.

(e) The notices required by this section shall be signed by the recipients and retained by the personal support services agency at its office for not less than two (2) years.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.